

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSE LUIS GODOY, et al.,
Plaintiffs,
v.
COUNTY OF SONOMA, et al.,
Defendants.

Case No. [15-cv-00883-WHO](#)

**ORDER GRANTING MOTION FOR
REVIEW OF TAXATION OF COSTS**

Re: Dkt. No. 118

INTRODUCTION

Plaintiffs Jose Luis Godoy, L.M., a minor, by and through her guardian ad litem, Maria Baraias, K.A., a minor, by and through her guardian ad litem, Ana Alvarado, and J.C., a minor, by and through his guardian ad litem, Deanna Boyd, brought claims alleging that they were unlawfully detained and subjected to excessive force in retaliation for protesting the death of their friend Andy Lopez, who was killed by Sonoma County Officers. On July 22, 2016, I granted defendants County of Sonoma and Officers Dylan Fong, Dave Pedersen, and Matthew Lupton's motion for summary judgment on these claims. Dkt. No. 108. The undisputed facts established that defendants detained plaintiffs as a result of a 911 call unrelated to the protests and did not use unreasonable force during the incident. *Id.*

Judgment was entered against plaintiffs and in favor of the defendants on July 27, 2016, Dkt. No. 112, and costs were taxed against plaintiffs in an amount totaling \$3,502.90. Dkt. No. 117. While this is not a large sum in comparison with costs taxed in most cases, I will exercise my discretion and decline to tax costs in light of the particular facts in this case, including that all but one of the plaintiffs are minors, all are indigent, and an award of costs would both chill similar actions in the future and be an unnecessary debt hanging over their heads while they use whatever means they have to support themselves and their families. Accordingly, I GRANT plaintiffs'

1 motion to review taxation of costs and decline to tax costs against the plaintiffs.

2 **LEGAL STANDARD**

3 Federal Rule of Civil Procedure 54(d)(1) provides that “costs other than attorneys’ fees
4 shall be allowed as of course to the prevailing party unless the court otherwise directs.” This rule
5 “creates a presumption in favor of awarding costs to prevailing parties, and it is incumbent upon
6 the losing party to demonstrate why the costs should not be awarded. *Stanley v. Univ. of S. Cal.*,
7 178 F.3d 1069, 1079 (9th Cir. 1999). If the court exercises its discretion and chooses to deny
8 costs it must “specify reasons for its refusal to award costs.” *Ass’n of Mexican-American*
9 *Educators v. California*, 231 F.3d 572, 591 (9th Cir. 2000).

10 A court has discretion to deny costs in certain circumstances, for example where: (1) the
11 plaintiff has limited financial resources; (2) there is a great economic disparity between the parties;
12 (3) the case involves issues of substantial public importance; or (4) the taxation of costs would
13 chill civil rights litigation. *Ass’n of Mexican-American Educators*, 231 F.3d at 593; *See also*
14 *Stanley*, 178 F.3d at 1079 (“District courts should consider the financial resources of the plaintiff[s]
15 and the amount of costs in civil rights cases.”). These factors weigh in plaintiffs’ favor and I
16 exercise my discretion to deny costs.

17 **DISCUSSION**

18 **A. Indigency**

19 Plaintiffs ask this court to review and deny the taxing of costs against them due to their
20 indigency. Mot. at 1. Plaintiffs are Jose Luis Godoy and three high school students, K.A., J.C.,
21 and Lisbet Mendoza. Godoy, Lisbet Mendoza, and K.A. and her mother, Ana Alvarado, have
22 submitted declarations explaining that they do not have significant financial resources and
23 incurring the costs of this lawsuit would place a substantial financial burden on them. Alvarado
24 Decl. (Dkt. No. 118-1); Godoy Decl. (Dkt. No. 118-2); K.A. Decl. (Dkt. No. 118-3); Mendoza
25 Decl. (Dkt. No. 118-4). Plaintiff J.C. and his guardian ad litem, Deanna Boyd have not submitted
26 any declarations explaining their financial situation. However, Godoy explains in his declaration
27 that he and his girlfriend are currently taking care of J.C., who is currently in high school and
28 unemployed, because J.C.’s natural mother is facing a criminal prosecution. Godoy Decl. ¶ 3.

Godoy is currently employed as a caregiver for his mother, works approximately 27 hours a week and makes around \$1400 per month and “clears” \$1060. *Id.* ¶ 4. His girlfriend makes around \$800 per month. *Id.* Each month they spend \$1,000 on rent, \$100 on utilities, \$500 on their car, \$269 for car insurance, and \$500-600 in food. *Id.* Their total living expenses per month are approximately \$2369-2469. *Id.* Godoy is currently supporting his three children and plaintiff J.C. *Id.* ¶ 3. He explains that J.C. is a high school student and does not have any income. *Id.* ¶ 7. Prior to getting into subsidized housing, Godoy and his family were homeless for three months and then lived in a shelter for six months. *Id.* ¶ 5. Based on the figures he has provided, he has no extra funds; his expenses exceed his resources by \$169-\$609 each month.

Alvarado is a single mother of four children and works full time cleaning houses. Alvarado Decl. ¶ 1. She receives \$2,600 in monthly income and child support payments for two of her children. *Id.* ¶ 3. Each month she pays \$1,500 in rent, \$800 for utilities and food, and \$150-200 for gas. *Id.* Based on these figures, she has \$50-\$150 left over each month. However, she explains that with incidental expenses she rarely has any money left over. *Id.* Plaintiff K.A. is Alvarado’s daughter. *Id.* ¶ 4. K.A. is a high school student and does not have any income and relies on her mother for economic support. K.A. Decl. ¶¶ 2-3.

Mendoza is 18 years old but is a high school student and does not have a job or any income. Mendoza Decl. ¶¶ 1-3. She relies on her parents for economic support and states that her parents “do not make a lot of money and they have to take care of my siblings too.” *Id.* ¶ 4.

Defendants dispute that these declarations adequately establish the plaintiffs’ indigency and specifically note that J.C. did not submit a declaration explaining his financial situation, that Mendoza, who is 18, did not explain why she is not working, and that none of the plaintiffs explained whether they have assets beyond their income. This argument is not persuasive as plaintiffs have submitted sufficient evidence to establish their limited financial resources. Plaintiffs declarations establish that J.C. is an unemployed minor in high school, that Mendoza, despite being 18, is unemployed because she is still in high school, that Godoy was recently homeless and is now living in subsidized housing, that J.C. is living with Godoy because his mother is facing a criminal prosecution, and that Mendoza and K.A. rely on their parents, who

1 themselves have very limited resources, for their economic needs. There is no reason to believe
 2 that these plaintiffs, three high school students and a young adult who was recently homeless, have
 3 any other assets to cover the costs in this case. The Ninth Circuit has advised that “[d]istrict courts
 4 should consider the financial resources of the plaintiff and the amount of costs in civil rights
 5 cases.” *Stanley*, 178 F.3d at 1079. Plaintiffs have established that they have virtually no financial
 6 resources and that a cost award of \$3,502.90 would render them indigent to the extent that they are
 7 not already indigent. Plaintiffs’ financial situation supports denying the award of costs.

8 In contrast, the County of Sonoma and Officers Dylan Fong, Dave Pedersen, and Matthew
 9 Lupton, as public entities and employees, have significantly more resources. *See, e.g., Hunter v.*
 10 *City and County of San Francisco*, No. 11-cv-4911-JSC, 2013 WL 6088409 at *3 (N.D. Cal. Nov.
 11 19, 2013) (“there exists a significant economic disparity between Plaintiff and the City and County
 12 of San Francisco, the entity seeking to recover costs in this action”). This factor also weighs in
 13 favor of denying costs.

14 **B. The Case Involves Important Issues and Would Chill Future Civil Rights Actions**

15 Plaintiffs filed this civil rights suit believing they were unlawfully detained and subjected
 16 to excessive force in retaliation for protesting the death of their friend Andy Lopez, who was
 17 killed by Sonoma County Officers. At the time this case was filed, three of the plaintiffs were
 18 minors and high school students and all of the plaintiffs were heavily involved in protests related
 19 to Lopez’s death. Although the facts ultimately showed that the police arrested plaintiffs because
 20 they were responding to a 911 call regarding suspicious activity, and not in retaliation for their
 21 protesting activities, plaintiffs’ case still raised important issues about police conduct, excessive
 22 force, and potential retaliatory activity against police protestors. “[A] case is considered to be of
 23 great importance when the claims involved are subject to closer scrutiny or special interest by the
 24 court, or the issues raised in the litigation have ramifications beyond the parties and concerns
 25 immediately involved in the litigation.” *Ayala*, 2011 WL 6217298 at *3. This case raised
 26 important issues regarding the potential use of excessive force and retaliatory arrests against civil
 27 rights protestors by the Sonoma County Sheriffs’ department.

28 In this particular case, in light of the age and indigency of the plaintiffs, and its genesis in

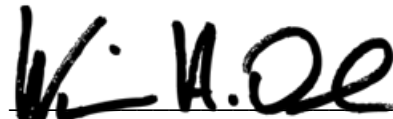
1 the protests following the death of Andy Lopez, an award of \$3,502.90 in costs would have a
2 chilling effect on future civil rights litigation. Plaintiffs were primarily minors, with limited
3 resources, who believed they were retaliated against by the Sonoma County Sheriffs' department
4 for protesting the death of their friend. Taxing costs "on losing civil rights plaintiffs of modest
5 means may chill civil rights litigation in this area." *Stanley*, 178 F.3d at 1080. It would in this
6 case.

7 CONCLUSION

8 Plaintiffs are indigent and taxing costs totaling \$3,502.90 against them would place a
9 substantial financial burden on them and chill future civil rights litigation of this kind. I therefore
10 exercise my discretion and GRANT plaintiffs' Motion for Review of Taxation of Costs and
11 decline to award costs in this case.

12 **IT IS SO ORDERED.**

13 Dated: November 10, 2016

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15 WILLIAM H. ORRICK
16 United States District Judge
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